

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>SANDRA FORBES, GILLERMO MUSSO,</b>	§	
<b>WILLIAM COLLINS AND ABRAHAM</b>	§	
<b>AGUIRRE</b>	§	
	§	
<b>VS.</b>	§	<b>C.A. NO. 4:19-cv-04264</b>
	§	<b>(JURY)</b>
<b>STATE FARM LLOYDS</b>	§	
	§	

**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

STATE FARM LLOYDS ("Defendant"), Defendant in the above-styled and numbered cause, files this Notice of Removal of the present case from the 55<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In connection with this Notice of Removal, Defendant would respectfully show the Court as follows:

**I.  
PROCEDURAL BACKGROUND**

1. On September 20, 2019, Plaintiffs filed this action against State Farm Lloyds ("State Farm") in the 55<sup>th</sup> Judicial District Court of Harris County, Texas. The state court cause number is 2019-68601 ("State Court Action"). In Plaintiffs' Original Petition ("Original Petition"), Plaintiffs seek monetary relief over \$1,000,000. (*See* Pl.s' Original Pet. ¶ 4) State Farm was served on October 1, 2019. State Farm filed its answer on October 17, 2019.

2. In accordance with 28 U.S.C. § 1446, Defendant files this Notice of Removal to remove the State Court Action from the 55<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

**II.**  
**NATURE OF SUIT**

3. Plaintiffs filed this lawsuit alleging State Farm failed to pay insurance benefits owed to them in accordance with insurance policies for damage to their homes and other property caused by Hurricane Harvey or at other times during the policy periods. (*See* Pl.s' Original Pet. ¶¶ 9–10.) Plaintiffs assert causes of action for breach of contract and for violations of Chapters 541 and 542 of the Texas Insurance Code, and breach of the common law duty of good faith and fair dealing. (*Id.* at ¶¶ 25–35.)

**III.**  
**BASIS OF REMOVAL**

4. The Southern District of Texas has jurisdiction over this action, pursuant to 28 U.S.C § 1441 and 28 U.S.C. § 1332, because the parties are diverse and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

5. First, the parties are diverse. At all relevant times, Plaintiffs were, and continue to be, Texas citizens. (*See* Pl.s' Original Pet. at ¶ 2.) State Farm is an association of individual underwriters authorized to conduct business in Texas as a Lloyd's plan insurer, which is defined and set out in Chapter 941 of the Texas Insurance Code. The citizenship of an unincorporated association is determined by the citizenship of each member of the entity, not by the state where the entity is organized. *See Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882–83 (5th Cir. 1993) (finding that a Lloyd's plan association was not a Texas citizen); *see also Griggs v. State Farm Lloyds*, 181 F.3d 694, 698 (5th Cir. 1999) (finding that State Farm Lloyds is a citizen of Illinois). At all relevant times, State Farm was, and continues to be, an unincorporated insurance association whose underwriters were, and still are, citizens of states other than Texas. (*See* Aff. of Michael Roper attached hereto.) Accordingly, State Farm is not a citizen of the State of Texas.

6. Second, the amount in controversy exceeds \$75,000. Plaintiffs are seeking damages in excess of \$1,000,000. (*See* Pl.s' Original Pet. ¶ 4.) Thus, removal to the Southern District of Texas is proper.

#### **IV. REMOVAL PROCEDURES**

7. On September 20, 2019, Plaintiffs filed this case against Defendant in the 55<sup>th</sup> Judicial District Court of Harris County, Texas. State Farm was served on October 1, 2019. State Farm filed its Answer on October 17, 2019. This Notice of Removal is being timely filed on October 30, 2019 which is 30 days after State Farm was served. Accordingly, this Notice of Removal is timely filed within 30 days of when State Farm was served and within one year from the commencement of this suit. *See* 28 U.S.C. § 1446(b)(1); 28 U.S.C. § 1446(c)(1).

8. The Houston Division of the Southern District of Texas is the proper venue because: (1) Plaintiffs' properties, which was allegedly damaged by wind and which forms the basis of Plaintiffs' lawsuit, are located in Harris County, 28 U.S.C. § 1391(b)(2), and (2) Plaintiffs' State Court Action was brought, and is pending, in Harris County. *See* 28 U.S.C. § 1441(a). Harris County is within the jurisdictional limits of the Houston Division. *See* 28 U.S.C. § 124(b)(2).

9. All information and documents required by 28 U.S.C. § 1446(a) and by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A. In addition, pursuant to 28 U.S.C. § 1446 (d), a copy of this Notice of Removal will be promptly filed with the Harris County District Clerk's Office and served on the Plaintiffs.

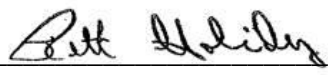
10. A jury fee was paid in state court and Defendant hereby requests a jury trial in this cause of action.

**V.**  
**PRAYER**

11. Defendant respectfully requests that the above-styled action now pending in the 55<sup>th</sup> Judicial District Court of Harris County, Texas, be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered for Defendant and against Plaintiffs, that Defendant recover its costs, and for such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

**GERMER PLLC**

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 30<sup>th</sup> day of October, 2019.

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**VIA CM/ECF**



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**DALE M. "RETT" HOLIDAY**